

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2004-18-E - ORDER NO. 2004-74
FEBRUARY 18, 2004

IN RE: Petition of Duke Power, a Division of Duke)
Energy Corporation, for Approval of the Sale) ORDER APPROVING
of Property in South Carolina.) PROPERTY SALE

This matter comes before the Public Service Commission of South Carolina (the "Commission") on the Petition of Duke Power, a Division of Duke Energy Corporation ("Duke" or the "Company"), for approval of the sale of certain real estate, known as the Spartanburg Business Office and related parcels (hereinafter referred to as "the Spartanburg Office") located in the Duke service area in South Carolina. Duke's Petition is made pursuant to S.C. Code Ann. Section 58-27-1300 (Supp. 2003).

By Petition dated January 14, 2004, Duke states that the Spartanburg Office consists of certain real estate which is not required for current utility operations. The Spartanburg Office is situated at 349 East Main Street in Spartanburg and consists of a .61 acre commercial site improved with an approximately 25,000 square foot, two-story office building with a basement; an adjoining .37 acre parcel; and a .53 acre parcel located on Kennedy Street that provides overflow parking. Duke attaches as Exhibit A to the Company's Petition a detailed description of the Spartanburg Office. The Spartanburg Office was completed in 1961 and housed operations that have been consolidated into other facilities or moved to more appropriate spaces, rendering, according to Duke, this

office surplus. On August 14, 2001, McDaniel & Company listed the Spartanburg Office for sale. A copy of the listing by McDaniel & Company is provided by Duke as Exhibit C to the Company's Petition.

In support of the fair market value of the property, Duke provides, as Exhibit B to its Petition, an appraisal letter dated August 5, 2002, by M. Ralph Griffin, Jr. of Marion R. Griffin and Company, Inc., a South Carolina certified general real estate appraiser, located in Greenville, South Carolina. According to the appraisal of Mr. Griffin, the market value of the Spartanburg Office is \$1,750,000.00, as of August 5, 2002.¹ As to the book value of the Spartanburg Office, Duke asserts that the book value of the property is \$885,052.00.

According to Duke, the Company has entered into an Agreement of Purchase and Sale with The Spartanburg County Foundation of Spartanburg, South Carolina ("the Foundation") wherein the Foundation will purchase the Spartanburg Office for a price of \$1,700,000.00. Duke advises that the Spartanburg Office was marketed for an extended period of time without sale, and Duke asserts its belief that accepting the offer of the Foundation is in the best interest of the Company and its rate payers.

Duke informs the Commission that the original cost of the Spartanburg Office being sold will be credited as a reduction of the amount carried upon the books of the Company under Account 101, Electric Plant in Service. The difference between the sale

¹ On February 3, 2004, Duke provided a letter from M. Ralph Griffin, Jr. to update the August 5, 2002, appraisal of the Spartanburg Office. According to Mr. Griffin's letter, dated February 3, 2004, "...the value as indicated in my original appraisal has not changed significantly as of February 2, 2004. ... it is my opinion that the current market value of the above-mentioned parcel is approximately the same as the value indicated in my appraisal of the above-mentioned property."

price and the original cost of the Spartanburg Office will be applied to Account 421.10, Gain on Disposition of Property or Account 421.20, Loss on Disposition of Property.

Duke advises that the Consumer Advocate for the State of South Carolina (“Consumer Advocate”) has been served with a copy of Duke’s Petition as required by S.C. Code Ann. Section 58-27-1300 (Supp. 2003), and Duke’s cover letter indicates a copy of the Petition being sent to the Consumer Advocate. The Consumer Advocate, by email dated January 30, 2004, advised the Commission Staff that he has no objection to approval of Duke’s request seeking Commission approval to sell the Spartanburg Office property; however, the Consumer Advocate did state that he reserved the right to look at any ratemaking consequences of this transaction in Duke’s next rate proceeding.

Finally, Duke requests that the Commission determine that the Company has complied with the statute (58-27-1300) and further requests that the Commission exercise the discretion allowed by the statute and decide that a hearing not be necessary in this matter and enter an order approving the sale of the Spartanburg Office.

FINDINGS OF FACT

Upon examination of the Petition, the Commission makes the following Findings of Fact:

1. Duke is the owner of certain real property in Spartanburg County, South Carolina known as the Spartanburg Office and described as being situated at 349 East Main Street in Spartanburg and consisting of a .61 acre commercial site improved with an approximately 25,000 square foot, two-story office building with a basement; an

adjoining .37 acre parcel; and a .53 acre parcel located on Kennedy Street that provides overflow parking.

2. The Spartanburg Office was completed in 1961 and housed operations of Duke that have been consolidated into other facilities or moved to more appropriate spaces, rendering this office surplus.

3. On August 14, 2001, McDaniel & Company listed the Spartanburg Office for sale.

4. Duke has entered into an Agreement of Purchase and Sale with The Spartanburg County Foundation of Spartanburg, South Carolina wherein the Foundation will purchase the Spartanburg Office for a price of \$1,700,000.00.

5. The fair market value of the Spartanburg Office is \$1,750,000.00, and the book value of the Spartanburg Office is \$885,052.00. The difference in the fair market value of the Spartanburg Office and the sale price is \$50,000.00. While the purchase price of the Spartanburg Office is lower than the fair market value of the property, the Commission finds a sale price lower than the fair market value of little consequence due to the extensive duration of advertisement for the property with little interest being shown by potential buyers in purchasing the Spartanburg Office.

6. The Commission finds that the sale of the Spartanburg Office to The Spartanburg County Foundation of Spartanburg, South Carolina is a bona fide sale. The Spartanburg Office was listed beginning August 14, 2001, with a commercial realtor, and the property is being sold for the best offer received.

7. The Commission finds that the accounting treatment proposed by Duke is appropriate. Under the proposed accounting treatment, the original cost of the Spartanburg Office will be credited as a reduction of the amount carried upon the books of the Company under Account 101, Electric Plant in Service. The difference between the sale price and the original cost of the Spartanburg Office will be applied to Account 421.10, Gain on Disposition of Property or Account 421.20, Loss on Disposition of Property.

8. By an email dated January 30, 2004, the Consumer Advocate advised the Commission Staff that he has no objection to approval of Duke's request for sale of the Spartanburg Office property. However, the Consumer Advocate did state that he reserved the right to look at any ratemaking consequences arising from this transaction in Duke's next rate proceeding.

9. S.C. Code Ann. Section 58-27-1300 (Supp. 2003) provides that a hearing of the sale of property by an electrical utility may be held at the Commission's discretion. The Commission finds no circumstances present that require a hearing in this matter.

Based upon the above-stated Findings of Fact, the Commission makes the following Conclusions of Law:

CONCLUSIONS OF LAW

1. S.C. Code Ann. Section 58-27-1300 (Supp. 2003) entitled "Disposition of properties, powers, franchises or privileges ..." governs the transaction concerning the sale of Duke's Spartanburg Office. Section 58-27-1300 requires an electrical utility to obtain approval from the Commission prior to selling utility property, except that utility

property with a fair market value of one million dollars or less may be disposed of without prior approval of the Commission.

2. S.C. Code Ann Section 58-27-1300 (Supp. 2003) does not require a hearing on a Petition filed pursuant to Section 58-27-1300 but makes a hearing discretionary with the Commission.

3. The Commission concludes there are no circumstances present which warrant a hearing in this matter.


4. The Commission concludes that Duke has complied with the requirements of S.C. Code Ann. Section 58-27-1300 (Supp. 2003) and that the requested approval of the sale of the Spartanburg Office should be granted

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. Approval for the sale of Duke's Spartanburg Office property to The Spartanburg County Foundation of Spartanburg, South Carolina for the price of \$1,700,000.00 is granted.

2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn, Chairman

ATTEST:



Bruce F. Duke, Executive Director

(SEAL)